



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Set a Public Hearing for January 19, 2005 in order to consider two appeals of the Planning Commission's decision regarding the Lodi Shopping Center project (Wal-Mart Supercenter) located at 2640 West Kettleman Lane.

MEETING DATE: January 5, 2005

PREPARED BY: Community Development Director

RECOMMENDED ACTION: That the City Council set a Public Hearing for January 19, 2005 in order to consider two appeals of the Planning Commission's decision regarding the Lodi Shopping Center project (Wal-Mart Supercenter) located at 2640 West Kettleman Lane.

FUNDING: None

A handwritten signature in black ink, appearing to read "Konradt Bartlam", written over a horizontal line.

Konradt Bartlam
Community Development Director

KB/lw

Attachments: Letter from Herum Crabtree Brown
Letter from Steefel, Levitt & Weiss (on behalf of Wal Mart)

APPROVED:

A handwritten signature in black ink, appearing to read "Janet S. Keeter", written over a horizontal line.

Janet S. Keeter, Interim City Manager

CITY COUNCIL

JOHN BECKMAN, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
LARRY D. HANSEN
BOB JOHNSON
JOANNE MOUNCE

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

JANET S. KEETER
Interim City Manager
SUSAN J. BLACKSTON
City Clerk
D. STEPHEN SCHWABAUER
City Attorney

December 13, 2004

Herum Crabtree Brown
Natalie M. Weber
2291 W. March Lane, Ste. B100
Stockton, CA 95207

APPEAL OF PLANNING COMMISSION DECISION (12-08-04)
Certifying Final EIR 03-01, Approving Use Permit U-02-12, and Tentative
Parcel Map 03-P-001

The City Clerk's Office is in receipt of your correspondence regarding the above subject dated December 10, 2004, which has been timely filed in accordance with Lodi Municipal Code 17.72.110. This letter is to inform you that in addition to providing a copy to the City Council we have forwarded your correspondence to the following departments for information, referral, or handling: 1) Interim City Manager, 2) City Attorney, and 3) Community Development Department.

Your check in the amount of \$250 to appeal the decision of the Planning Commission was forwarded to the Community Development Department. You will be notified in writing of the date this matter will be considered by the City Council.

Should you have any questions regarding this, please contact the City Clerk's Office at (209) 333-6702.

Sincerely,



Susan J. Blackston
City Clerk

cc w/enclosure: Interim City Manager
City Attorney
Community Development Department
City Council

HCB
HERUM CRABTREE BROWN
Attorneys At Law

Natalie M. Weber
nweber@herumcrabtree.com

December 10, 2004

VIA HAND DELIVERY

Ms. Susan J. Blackston
Clerk of the City of Lodi
221 West Pine Street
Lodi, CA 95241

RECEIVED
2004 DEC 10 PM 4:22
CITY CLERK
CITY OF LODI

Re: Appeal of Planning Commission Decision Certifying Final EIR 03-01, Approving Use Permit U-02-12, and Tentative Parcel Map 03-P-001
(State Clearing House Number 2003042113)

Dear Ms. Blackston:

Enclosed please find a timely request for de novo review by the City Council on appeal of the Planning Commission's December 8, 2004 decision to approve the request of Browman Development Company to certify Final Environmental Impact Report EIR 03-01, approve Use Permit U-02-12 to allow the construction of a regional commercial center in the C-S, Commercial Shopping District, and to allow the sale of alcoholic beverages at the Wal-Mart Supercenter and Tentative Parcel Map 03-P-001 to create twelve parcels for the project at 2640 W. Kettleman Lane. This appeal is filed on behalf of Lodi First, an unincorporated association of Lodi residents, voters, property owners, and taxpayers interested in ensuring responsible and lawful development in Lodi.

Generally, the appeal is filed on the basis that the Project conflicts with the Lodi Zoning Code, is inconsistent with the Lodi General Plan, and does not satisfy the minimum requirements of the California Environmental Quality Act ("CEQA").

Please also find Check No. 12203 in the amount of \$250.00 to cover the appeal fee. If you have any questions, please feel free to contact me.

Very truly yours,

Natalie M. Weber

NATALIE M. WEBER
Attorney-at-Law

Enclosure

X	CC	HR
X	CM	IS
X	CA	LIB
X	CD	PR
	EUD	PD
	FIN	PW
	FD	COM

CITY COUNCIL

JOHN BECKMAN, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
LARRY D. HANSEN
BOB JOHNSON
JOANNE MOUNCE

CITY OF LODI

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JANET S. KEETER
Interim City Manager
SUSAN J. BLACKSTON
City Clerk
D. STEPHEN SCHWABAUER
City Attorney

December 13, 2004

Steefel, Levitt & Weiss
Timothy Cremin
One Embarcadero Center, 30th Floor
San Francisco, CA 94111-3719

APPEAL OF PLANNING COMMISSION DECISION (12-08-04)
RE: TWO CONDITIONS

The City Clerk's Office is in receipt of your correspondence regarding the above subject dated December 13, 2004, which has been timely filed in accordance with Lodi Municipal Code 17.72.110. This letter is to inform you that in addition to providing a copy to the City Council we have forwarded your correspondence to the following departments for information, referral, or handling: 1) Interim City Manager, 2) City Attorney, and 3) Community Development Department.

Your check in the amount of \$250 to appeal the decision of the Planning Commission was forwarded to the Community Development Department. You will be notified in writing of the date this matter will be considered by the City Council.

Should you have any questions regarding this, please contact the City Clerk's Office at (209) 333-6702.

Sincerely,



Susan J. Blackston
City Clerk

cc w/enclosure: Interim City Manager
City Attorney
Community Development Department
City Council



RECEIVED

DEC 13 2004

City Clerk
City of Lodi

December 13, 2004

16982

City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

Re: Appeal of Planning Commission Decision on Wal-Mart
Supercenter on December 8, 2004

Dear City Clerk:

On December 8, 2004, the Planning Commission unanimously certified the EIR, and approved a use permit and tentative parcel map for a commercial shopping center located at 2640 W. Kettleman Lane, which includes a Wal-Mart Supercenter. We are greatly appreciative of the approval. Wal-Mart has been a part of the Lodi community since 1991 and has worked diligently for several years with the City on this project. We are thankful to City staff and officials for all their hard work. Wal-Mart looks forward to opening its new Supercenter and continuing and enhancing its relationship with the City and its residents.

We have been informed that Steve Herum, Esq. has filed an appeal of the Planning Commission's approval on behalf of a purported citizen's group called Lodi First. In light of that action, we are submitting this letter to the City.

Wal-Mart is in agreement with staff and the City on all conditions of approval other than two conditions adopted by the Planning Commission. This appeal relates only to those two conditions. First, Wal-Mart has concerns related to the proposed language for Condition R of the use permit and tentative map approval resolution. This condition requires signed leases for 50% of the existing Wal-Mart store before a building permit is issued for the new Supercenter, and prohibits tenant restrictions. As Wal-Mart expressed to the Planning Commission, it understands the importance to the City of re-tenanting the existing store. It is committed to seeing that happen. Wal-Mart intended its sale to Browman Development Company to address these concerns by putting the property in the hands of the owner of the overall shopping center who has a proven track record of tenanting the center and has a huge financial incentive to have the space re-tenanted. Wal-Mart is concerned with the language of the condition and has suggested alternative language for the following reasons, among others. Wal-Mart is selling its existing building and land to Browman Development Company who will be in control of the existing store property at the time Wal-Mart seeks the Supercenter building permit. So, Wal-Mart's building permit will be subject to satisfaction of a condition that it has no control over. Requiring signed leases at building permit is premature because Wal-Mart will still occupy the existing store at that time and the date of its availability for the new tenant will

City Clerk
City of Lodi
December 13, 2004
Page Two

be uncertain. Further, there is some question about the City's ability to regulate the terms of Wal-Mart's sale of its existing building. Finally, there is no nexus for the condition since the economic study concluded that re-tenanting was not a significant environmental issue.

Second, Wal-Mart has concerns about a new condition added by the Planning Commission at the end of the hearing. Our understanding is that this condition requires the project developer to fund the commercial linkage fee nexus study under Program 11 of the Housing Element and pay any adopted fees. We have concerns about this condition because it places the entire burden of the nexus study on a single project and was introduced late in the project processing. The Housing Element states that this study on a City-wide issue is the responsibility of the City to be funded with General Fund monies.

Enclosed is a check for the appeal fee of \$250.00.

We look forward to addressing the City Council on these issues and finding a mutually acceptable solution to re-tenanting the existing Wal-Mart store when it becomes vacated. Thank you very much for your consideration.

Sincerely,



Timothy Cremin

Enclosure

16982:6419142.2

RECEIVED

JAN 13 2005

City Clerk
City of Lodi

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Steeffel, Levitt + Weiss
Timothy Cremin
One Embarcadero Center
30th Floor
San Francisco, CA 94111-3719

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7003 3110 0001 9935 9326

PS Form 3811, August 2001

Domestic Return Receipt

2ACPRI-03-P-4081

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$.37

Certified Fee 2.30

Return Receipt Fee
(Endorsement Required) 1.75Restricted Delivery Fee
(Endorsement Required) —

Total Postage & Fees \$ 4.42

Postmark
Here

Sent To

Steeffel, Levitt + Weiss c/o Timothy Cremin

Street, Apt. No., or PO Box No. One Embarcadero Center 30th Floor

City, State, ZIP+4

San Francisco, CA 94111-3719

PS Form 3800, June 2002

See Reverse for Instructions

(Transfer from service label)

7003 3110 0001 9935 9333

2. Article Number

3. Service Type

☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

Herum Crabtree Brown
 Natalie M. Weber
 2291 W. Mark Ln. Ste #B100
 Stockton, CA 95207

1. Article Addressed to:

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

A. Signature *[Signature]*

B. Received by (Printed Name) *[Signature]*

C. Date of Delivery 1.7.05

D. Is delivery address different from item 1? ☐ Yes ☐ No

If YES, enter delivery address below:

COMPLETE THIS SECTION ON DELIVERY

SENDER: COMPLETE THIS SECTION

PS Form 3800, June 2002 See Reverse for Instructions

Sent To: Herum Crabtree Brown c/o Natalie M. Weber
 or PO Box No. 2291 W. Mark Ln. Ste B100
 City, State, ZIP+4: Stockton CA 95207

Postage	\$.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	—
Total Postage & Fees	\$ 4.42

Postmark Here

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PROOF OF PUBLICATION

(2015.5 C.C.C.P.)

STATE OF CALIFORNIA

County of San Joaquin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Lodi News-Sentinel, a newspaper of general circulation, printed and published daily except Sundays and holidays, in the City of Lodi, California, County of San Joaquin and which newspaper had been adjudicated a newspaper of general circulation by the Superior Court, Department 3, of the County of San Joaquin, State of California, under the date of May 26th, 1953. Case Number 65990; that the notice of which the annexed is a printed copy (set in type not smaller than non-pareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereto on the following dates to-wit:

January 8th
.....

all in the year 2005.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Lodi, California, this 8th day of
January, 2005



Signature

This space is for the County Clerk's Filing Stamp

Proof of Publication of

Notice of Public Hearing
City of Lodi, City Council, January 19th, 2005

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Wednesday, January 19, 2005, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

a) Two appeals of the Planning Commission's decision regarding the Lodi Shopping Center (Wal-Mart Supercenter) project located at 2640 West Kettleman Lane.

Information regarding this item may be obtained in the office of the Community Development Department, 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:
Susan J. Blackston
City Clerk

Dated: January 6, 2005
Approved as to form:
D. Stephen Schwabauer
City Attorney
January 8, 2005

— 7430

7430



***Please immediately confirm receipt
of this fax by calling 333-6702***

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: SET PUBLIC HEARING FOR JANUARY 19, 2005, TO CONSIDER TWO APPEALS
OF THE PLANNING COMMISSION'S DECISION REGARDING THE LODI
SHOPPING CENTER (WAL-MART SUPERCENTER) PROJECT LOCATED AT
2640 WEST KETTLEMAN LANE.

LEGAL AD

PUBLISH DATE: SATURDAY JANUARY 8, 2005

TEAR SHEETS WANTED: Three (3) please

SEND AFFIDAVIT AND BILL TO:

SUSAN BLACKSTON, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, JANUARY 6, 2005

ORDERED BY:


KARI J. CHADWICK
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

SEND PROOF OF ADVERTISEMENT. THANK YOU!!

LNS Faxed to the Sentinel at 369-1084 at 11:30am (time) on 1/6/05 (date) 2 (pages)
Dora Phoned to confirm receipt of all pages at 12:20pm (time) Jac JCKJC Jen (initials)



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: January 19, 2005

Time: 7:00 p.m.

For information regarding this notice please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

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If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:

A handwritten signature in cursive script, appearing to read "Susan J. Blackston".

Susan J. Blackston
City Clerk

Dated: January 6, 2005

Approved as to form:

A handwritten signature in cursive script, appearing to read "D. Stephen Schwabauer".

D. Stephen Schwabauer
City Attorney



DECLARATION OF POSTING

**SET PUBLIC HEARING FOR JANUARY 19, 2005, TO CONSIDER TWO APPEALS OF THE
PLANNING COMMISSION'S DECISION REGARDING THE LODI SHOPPING CENTER (WAL-
MART SUPERCENTER) PROJECT LOCATED AT 2640 WEST KETTLEMAN LANE.**

On Friday, January 7, 2005, in the City of Lodi, San Joaquin County, California, a copy of a Notice of Public Hearing to consider two appeals of the Planning Commission's decision regarding the Lodi Shopping Center (Wal-Mart Supercenter) project located at 2640 West Kettleman Lane (attached hereto, marked Exhibit "A"), was posted at the following four locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum


I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 7, 2005, at Lodi, California

ORDERED BY:

**SUSAN J. BLACKSTON
CITY CLERK**

Jacqueline L. Taylor, CMC
Deputy City Clerk


Kari J. Chadwick
Administrative Clerk

Jennifer M. Perrin, CMC
Deputy City Clerk



DECLARATION OF MAILING

SET PUBLIC HEARING FOR JANUARY 19, 2005, TO CONSIDER TWO APPEALS OF THE PLANNING COMMISSION'S DECISION REGARDING THE LODI SHOPPING CENTER (WAL-MART SUPERCENTER) PROJECT LOCATED AT 2640 WEST KETTLEMAN LANE.

On January 7, 2005, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a notice to set public hearing for January 19, 2005, to consider two appeals of the Planning Commission's decision regarding the Lodi Shopping Center (Wal-Mart Supercenter) project located at 2640 West Kettleman Lane, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 7, 2005, at Lodi, California.


ORDERED BY:

**SUSAN BLACKSTON
CITY CLERK, CITY OF LODI**

ORDERED BY:

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK


KARI J. CHADWICK
ADMINISTRATIVE CLERK

**SET PUBLIC HEARING FOR JANUARY 19, 2005, TO CONSIDER TWO
APPEALS OF THE PLANNING COMMISSION'S DECISION REGARDING THE
LODI SHOPPING CENTER (WAL-MART SUPERCENTER) PROJECT
LOCATED AT 2640 WEST KETTLEMAN LANE**

1. 02741007; SACRAMENTO KETTLEMAN LLC; 1954 MOUNT DIABLO BLVD SUITE A; WALNUT CREEK; CA; 94596; 2445; W; KETTLEMAN; LN
2. 05803002; LODI SOUTHWEST ASSOCIATES LP ; 301 S HAM LN SUITE A ; LODI ; CA; 95242; 2640; W ; KETTLEMAN ; LN
3. 05814001; GREEN VALLEY GASOLINE LLC; 30101 AGOURA CT SUITE 200; AGOURA HILLS; CA; 91301; 2448; W; KETTLEMAN; LN
4. 05814042; CHRISTIAN J KNOX & ASSOC INC; 633 E VICTOR RD SUITE E; LODI; CA; 95240; 2442; W; KETTLEMAN; LN
5. 05814044; FIRST LODI PLAZA ASSOCIATES; 100 SWAN WAY SUITE 206; OAKLAND; CA; 94621; 2430; W; KETTLEMAN; LN
6. 02705021; MEXICAN AMER CATHOLIC FED; PO BOX 553; LODI; CA; 95241; 341; E; ST RT 12; HY
7. 05803003; VAN RUITEN RANCH LTD; J401 W TURNER RD; LODI; CA; 95242; 14509; N; LOWER SAC; RD
8. 05803009; REICHMUTH, CAROLYN HINES; 1358 MIDVALE RD; LODI; CA; 95240; 252; E; ST RT 12; HY
9. 05814004; FRAME, DEAN K & SHARON L TR; 212 RUTLEDGE DR; LODI; CA; 95242; 14752; N; LOWER SAC; RD
10. 05814006; HERRMANN, VERNET & C TRS; 1200 GLENHURST; LODI; CA; 95240; 800; E; OLIVE; AV
11. 05814007; DEL RIO, SANTIAGO M & RAMONA; 865 E OLIVE AVE; LODI; CA; 95242; 844; E; OLIVE; AV
12. 05814011; GREVER, ZANE M & P TRS; 1432 PARK ST; LODI; CA; 95242; 777; E; OLIVE; AV
13. 05814012; PETERSON, M BILL; P O BOX 473; LOCKEFORD; CA; 95237; 14500; N; LOWER SAC; RD
14. 05814014; PETERSON, RUTH SUSAN; PO BOX 331; SUTTER CREEK; CA; 95685; 14620; N; LOWER SAC; RD
15. Steefel, Levitt & Weiss; Timothy Cremin; One Embarcadero Center, 30th Floor; San Francisco; CA; 94111-3719
16. Herum Crabtree Brown; Natalie Weber; 2291 W. March Lane, Ste. B100; Stockton; CA; 95207